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OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable John Atchison
County Attorney
Cooke County
Gainesville, Texas

Dear Sir:

Opinion No. 0-4995

Re: Can county pay travel expenses
of witness in murder trial from
point outside State, and related
question?

Your telegraphic request for an opinion on the above matter has been received and carefully considered by this department. We quote said request as follows:

"ADVISE WHETHER COUNTY CAN PAY TRAVEL EXPENSES
OF WITNESS IN MURDER TRIAL FROM POINT OUTSIDE STATE
STOP IF NOT CAN GOVERNOR PAY SAME FROM HIS SPECIAL
LAW ENFORCEMENT ACCOUNT"

The commissioners' court is a court of limited power and jurisdiction, and has no powers or duties except those which are clearly set forth and defined in the Constitution and statutes. The statutes have clearly defined the powers, prescribed the duties, and imposed the liabilities of the commissioners' courts, the medium through which the different counties act, and from these statutes must come all of the authority vested in the county. 11 Tex. Jur. p. 563. It is the opinion of this department, therefore, that a county can not pay the travel expenses of a witness in a murder trial from a point outside of the State. For your further information on said matter we attach hereto a copy of our opinion No. 0-4251.

The 47th Legislature, at its Regular Session in 1941, appropriated for the Executive Department of our State Government the sum of \$5,000 for the fiscal year ending August 31, 1943, for the "payment of rewards and other expenses necessary for law enforcement". (Page 1157, Acts of the Legislature, Reg. Ses. 1941). Whether or not the payment of travel expenses

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of a witness in a murder trial from a point outside of the State of Texas can be made would be a question for the Governor to pass upon and he alone would have authority to pass upon whether or not such expenses would be necessary for law enforcement so that same could be paid out of said law enforcement appropriation above referred to.

For your information, however, we called the Governor's office and asked if such fund had ever been used for the purpose stated in your request, and we were informed that it had not been used for such purpose, also that the Governor stated he would not care to establish a precedent of allowing such fund to be used for the purpose stated by you.

Trusting that this satisfactorily answers your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Jas. W. Bassett

Jas. W. Bassett
Assistant

JWB:mp

APPROVED DEC 2, 1942

Gerald B. Mann
ATTORNEY GENERAL OF TEXAS